

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KEITH CLEMMONS, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	CIVIL ACTION NO. H-06-0587
	§	
JOSEPH “BUBBA” BUTERA, <i>et al.</i> ,	§	
	§	
Defendants.	§	

ORDER

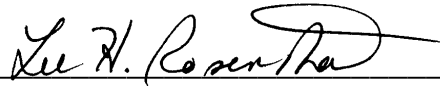
The defendants, Joseph “Bubba” Butera and Frank B. Mandola, have moved to strike the plaintiffs’ “Supplemental Petition with Jury Demand” filed on November 30, 2006. (Docket Entry No. 23). This supplemental petition purports to add four individual plaintiffs to this FLSA case. (Docket Entry No. 22). The defendants move to strike on the grounds that the plaintiffs did not seek leave to amend; the deadline for adding new parties expired in August 2006; and the existing plaintiffs have not provided basic information sought in discovery. (Docket Entry No. 23).

This court recently granted the plaintiffs’ motion for an extension of the deadlines in the docket control and scheduling order. (Docket Entry No. 21). That ruling extended the deadlines, including the deadline for the plaintiffs to seek FLSA certification. That deadline expired and no FLSA collective action certification motion was filed. Two days after the deadline expired, the “Supplemental Petition” purporting to add four new plaintiffs to this individual FLSA action was filed.

This court granted the previous extension at the request of plaintiffs' counsel to provide time to make the adjustments necessary following the withdrawal of the lawyer previously handling this case for the plaintiffs. The record, however, does not reflect that the plaintiffs complied with the amended scheduling and docket control order; did not seek leave to amend; and did not seek leave to add individual parties to the case. Nor did the plaintiffs respond to the defendants' motion to strike the supplemental petition; there is no information as to the status of basic discovery. Rule 16(b) of the Federal Rules of Civil Procedure requires that scheduling orders "shall not be modified except upon a showing of good cause." FED. R. CIV. P. 16(b). The plaintiffs have failed to make a good-cause showing.

The motion to strike the supplemental petition is granted.

SIGNED on January 17, 2007, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge